

Bureau of Land Management, Interior

§ 4150.2

this section on an allotment where he is authorized to graze under a BLM permit or lease may be subject to the civil penalties set forth at § 4170.1-1, if:

(i) The permittee or lessee performs the prohibited act while engaged in activities related to grazing use authorized by his permit or lease;

(ii) The permittee or lessee has been convicted or otherwise found to be in violation of any of these laws or regulations by a court or by final determination of an agency charged with the administration of these laws or regulations; and

(iii) No further appeals are outstanding.

(2) Violation of Federal or state laws or regulations pertaining to the:

(i) Placement of poisonous bait or hazardous devices designed for the destruction of wildlife;

(ii) Application or storage of pesticides, herbicides, or other hazardous materials;

(iii) Alteration or destruction of natural stream courses without authorization;

(iv) Pollution of water sources;

(v) Illegal take, destruction, or harassment, or aiding and abetting in the illegal take, destruction, or harassment of fish and wildlife resources; and

(vi) Illegal removal or destruction of archaeological or cultural resources.

(3)(i) Violation of the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), ESA (16 U.S.C. 1531 *et seq.*), or any provision of part 4700 of this chapter concerning the protection and management of wild free-roaming horses and burros; or

(ii) Violation of State livestock laws or regulations relating to the branding of livestock; breed, grade, and number of bulls; health and sanitation requirements; and violating State, county, or local laws regarding the straying of livestock from permitted public land grazing areas onto areas that have been formally closed to open range grazing.

[43 FR 29067, July 5, 1978, as amended at 46 FR 5790, Jan. 19, 1981; 47 FR 41712, Sept. 21, 1982; 49 FR 6454, Feb. 21, 1984; 50 FR 45827, Nov. 4, 1985; 53 FR 10235, Mar. 29, 1988; 53 FR 22326, June 15, 1988; 60 FR 9968, Feb. 22, 1995; 61 FR 4227, Feb. 5, 1996; 71 FR 39507, July 12, 2006]

Subpart 4150—Unauthorized Grazing Use

§ 4150.1 Violations.

Violation of § 4140.1(b)(1) constitutes unauthorized grazing use.

(a) The authorized officer shall determine whether a violation is nonwillful, willful, or repeated willful.

(b) Violators shall be liable in damages to the United States for the forage consumed by their livestock, for injury to Federal property caused by their unauthorized grazing use, and for expenses incurred in impoundment and disposal of their livestock, and may be subject to civil penalties or criminal sanction for such unlawful acts.

[43 FR 29067, July 5, 1978, as amended at 47 FR 41712, Sept. 21, 1982; 60 FR 9968, Feb. 22, 1995]

§ 4150.2 Notice and order to remove.

(a) Whenever it appears that a violation exists and the owner of the unauthorized livestock is known, written notice of unauthorized use and order to remove livestock by a specified date shall be served upon the alleged violator or the agent of record, or both, by certified mail or personal delivery. The written notice shall also allow a specified time from receipt of notice for the alleged violator to show that there has been no violation or to make settlement under § 4150.3.

(b) Whenever a violation has been determined to be nonwillful and incidental, the authorized officer shall notify the alleged violator that the violation must be corrected, and how it can be settled, based upon the discretion of the authorized officer.

(c) When neither the owner of the unauthorized livestock nor his agent is known, the authorized officer may proceed to impound the livestock under § 4150.4.

(d) The authorized officer may temporarily close areas to grazing by specified kinds or class of livestock for a period not to exceed 12 months when necessary to abate unauthorized grazing use. Such notices of closure may be issued as final decisions effective upon issuance or on the date specified in the decision and shall remain in effect pending the decision on appeal unless a